

## **Domestic Violence Restraining Orders**

The Grand Jury investigated the process by which a person subject to domestic violence obtains a Restraining Order. The Restraining Order is designed to prevent named individuals from contacting those who see them as threatening and is effective for three years

### **Method of Investigation**

The Grand Jury reviewed “Domestic Violence,” a packet on Restraining Orders issued by the court to anyone applying for a Temporary Restraining Order as a first step toward obtaining a Restraining Order.

The Grand Jury interviewed court officials, about the Restraining Order process and spoke with the Sheriff, a police chief, and street officers from different law enforcement agencies about police experience with Restraining Orders.

### **Findings**

1. A person wishing to obtain a Restraining Order must first apply for an *ex-parte* court hearing for a Temporary Restraining Order. An applicant must present a typewritten application on the day of the scheduled hearing. There is no filing fee, but applicants are subject to court fees and costs, unless granted a waiver.
2. The judge signs the Temporary Restraining Order after the *ex-parte* hearing and the applicant takes the signed order to the Superior Court Clerk who provides the applicant with five certified copies of the order.
3. The applicant must then arrange for service of the order. Any person over 18 years of age can serve the order on the restrained person. Alternatively, a police officer or Sheriff’s deputy can perform that function, but the applicant must take it to the appropriate office to arrange for that service.
4. At the Sheriff’s office, a clerk enters the order into the California Law Enforcement Tracking System (CLETS) computer so that information about it is available to officers who might need it. If the order doesn’t get to the Sheriff’s office, the information does not get into CLETS.
5. Only law enforcement agencies and the District Attorney have access to CLETS. The Court has neither the personnel nor the secure work-station required to interact with CLETS.
6. The Restraining Order process breaks down when applicants, confused or otherwise unclear about the system, fail to get the order to the Sheriff, with the result that the order is not in CLETS and officers have no information available when called out to deal with a person in violation of the order.

7. Besides the Temporary Restraining Order, an applicant can get an Emergency Protective Order, good for three days. A police officer on the scene contacts an on-call judge in circumstances, which, in the officer's judgment, warrant quick action. The judge authorizes the Emergency Protective Order, and the officer takes or faxes a hard copy to dispatch for immediate entry into CLETS.
8. If an applicant calls police to report a violation of an order, an officer can make a misdemeanor arrest on the spot if the officer observes the violation or if there is a warrant. Also, after speaking with aggrieved party, neighbors, or other witnesses, the officer may arrest after determining there is probable cause to believe someone has violated an order.
9. When an Restraining Order lapses or is lifted by request of the plaintiff or defendant, the Court informs the Sheriff, who enters that information into CLETS.

### **Recommendation**

- A. The Sheriff and police departments contact the Court Administration Office to recommend that Bailiffs be assigned to deliver orders to CLETS as soon as possible after they are issued. (Findings 3-6, 9)

### **Comment**

The Grand Jury suggests that the Court cooperate with law enforcement agencies to deliver orders expediently.

### **Response Required**

Mendocino County Sheriff

Fort Bragg City Council

Ukiah City Council

Willits City Council

### **Response Requested**

City of Fort Bragg Police Chief

City of Ukiah Police Chief

City of Willits Police Chief